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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,842	11/24/2003	David Alan Oshinsky	4982/13A	3613
29858	7590	07/28/2006		EXAMINER
BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP 900 THIRD AVENUE NEW YORK, NY 10022			ALAM, SHAHID AL	
			ART UNIT	PAPER NUMBER
			2162	

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/720,842	OSHINSKY ET AL.
	Examiner	Art Unit
	Shahid Al Alam	2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 July 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1, 3 – 6, 9 and 11 - 22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1, 3 – 6, 9 and 11 - 22 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date .

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. .
5) Notice of Informal Patent Application (PTO-152)
6) Other: .

DETAILED ACTION

1. Applicant's arguments filed on July 12, 2006 with respect to claims 1, 3 – 6, 9 and 11 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant added new claims 12 – 22, which are similar in scope with respect to other claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3 – 6, 9 and 11 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,161,111 issued to Madhav Mutalik et al. ("Mutalik") and in view of U.S. Patent Publication number 2003/0172158 A1 issued to Anathan Pillai et al. ("Pillai").

With respect to claim 1, Mutualik teaches a data retrieval system comprising:

the first computing device (host) having a processor that supports operation of a software application for retrieving data (see abstract; column 2, lines 47 – 54; column 3, lines 15 – 27, 40 – 42; column 4, lines 40 – 49 and column 9, lines 33 – 45);

the second computing device (server) communicatively coupled to the first computing device and to one or more storage media for storing the data (column 4, lines 1 – 5 and column 5, lines 31 – 65);

a third computing device communicatively coupled to the second computing device, the third computing device storing a storage and backup map that maps the data to the second computing device (see Figure 1 and corresponding text and also column 8, lines 50 – 63); and

a data index stored on the second computing device that indicates a particular location of the data on the one or more storage media that is to be retrieved (column 8, lines 50 – column 9, line 10 and lines 33 – 67 and column 13, lines 1 – 19).

Mutalik teaches Host computers and Server computers and these computers are connected to the Mass Storage Subsystem. Each storage subsystem has a control circuitry that is connected with Host computer and Server computer (see column 4, lines 1 – 29). Mutualik does not explicitly teach an interface module that is connected to the computer as claimed.

Pillai teaches claimed an interface module that is connected to the computer (see Figure 1 and paragraph [0046]).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine the teachings of Pillai with the teachings of Mutualik, because combination would enhances error detection and correction based on mountable data volume replications, manages data without data loss and enables recovery of portion of data without requiring high level of skill, at reduced time.

As to claims 3 and 4, the software application interoperates with an interface module, with a backup retrieval module and a file system program (see Figure 1 & 5A; Mutualik).

As to claims 5 and 6, the first computing device further comprises a file browser that is dynamic and changes to reflect information regarding the data to be retrieved, may be modified to display information regarding data to be retrieved specified by a user (see Figure 1 & 5A; Mutualik).

As to claim 9, a user may interact with the file browser to define a temporal range that specifies certain data to be retrieved (see Figure 1 & 5A; Mutualik).

As to claim 11, the file browser is Window Explorer (see Figure 1 & 5A Mutualik and also see Figure 1; Pillai).

As to claim 12, the first computing device is capable of retrieving the data without knowing the location of the data when the data is requested by the software application (Pillai: paragraphs [0006, 0008 and 0111]; the Host retrieves the data from the physical storage system level).

As to claim 13, the first, second and third computing devices are located remotely to each other and are communicatively coupled through a network (Pillai: Figure 1).

The subject matter of claims 14 – 17 and 18 – 22 are rejected in the analysis above in claims 1, 3 – 6, 9 and 11 – 13 and these claims are rejected on that basis.

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (571) 272-4030. The examiner can normally be reached on Monday-Thursday 8:00 A.M.- 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Shahid Al Alam
Primary Examiner
Art Unit 2162